

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

N.G.,[†]

Appellant.

No. 38091-9-II

UNPUBLISHED OPINION

Hunt, J. — NG appeals an order dismissing his motion for revision of a court commissioner's adjudicatory finding that he is guilty of second degree rape, fourth degree assault, and second degree robbery. He argues that the superior court erred in dismissing for lack of jurisdiction because a motion for revision is a postjudgment motion, which, under RAP 7.2(e), the superior court has authority to consider even after the filing of a notice of appeal in the same case. The State concedes error and joins in NG's request to remand. Accepting the State's concession, we reverse the order dismissing NG's motion and remand to the superior court with instructions to consider NG's motion for revision.

The State charged NG, a juvenile, with rape, assault, and robbery, all in the second degree. On July 1, 2008, a superior court commissioner adjudicated that he had committed rape and robbery in the second degree and assault in the fourth degree. On July 9, NG filed a motion for revision of the commissioner's findings of fact and conclusions of law under RCW 2.24.050.

[†] NG committed the crimes when he was a minor. Although he is now over 18 years old, we refer to him by his initials.

This motion prevented the filing of a final judgment.

Later that same month, NG filed a premature notice of appeal with our court. Reasoning that NG's notice of appeal had caused the superior court to lose jurisdiction. The superior court granted the State's motion to dismiss NG's motion for the revision and entered a final judgment. NG's appeal became perfected the following day.

Agreeing with the parties about the proper remedy, we reverse the order dismissing NG's motion and remand to the superior court for consideration of NG's motion for revision.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

Hunt, J.

We concur:

Houghton, P.J.

Quinn-Brintnall, J.